

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assistant Commissioner for Patents
Washington, D.D. 20231
ATTENTION LICENSING AND REVIEW

Declaration of Jürgen Klinghardt

I, Jürgen Klinghardt, do hereby declare as follows:

1. I am a patent attorney with the German firm of Eisenführ, Speiser & Partner, Martinistrasse 24, 28195 Bremen, GERMANY.
2. Our firm received a letter from Ms. Linda L. Palomar of Trexler, Bushnell, Giangiorgi, Blackstone & Marr, Ltd., dated December 10, 2001, which instructed our firm to file a German patent application which claimed priority from United States Provisional Patent Application Serial No. 60/259,947 and a formal patent application based thereon, which had yet to be assigned a Serial Number. The letter stated that the application should be filed in Germany before January 5, 2002. The letter further stated to delay filing of the patent application until we were notified that the foreign filing license had been granted. A copy of this letter is attached as Exhibit 1.
3. Our firm received a letter from Ms. Palomar, dated January 2, 2002, which instructed our firm to file the German patent application on January 4, 2002 as Ms. Palomar stated that the Foreign Filing License should be granted by that date. A copy of this letter is attached as Exhibit 2.
4. On January 3, 2002, our firm sent a letter to Ms. Palomar indicating safe receipt of our her letters dated December 10, 2001 and January 2, 2002 and confirming that a German patent application would be filed before January 5, 2002. A copy of this letter is attached as Exhibit 3.
5. On January 23, 2002, our firm sent a letter to Ms. Palomar indicating that the German application was filed with the German Patent Office on December 28, 2001 and was assigned Serial No. 101 64 376.4. A copy of this letter is attached as Exhibit 4.
6. Our firm received a letter from Mr. James A. O'Malley of Trexler, Bushnell, Giangiorgi, Blackstone & Marr, Ltd., dated February 7, 2002, which expressed confusion over the filing date of the German patent application as it was requested the German application be filed on January 4, 2002, but the application was in actuality filed on December 28, 2001. A copy of this letter is attached as Exhibit 5.

7. Our firm received a reminder letter from Mr. O'Malley, dated February 13, 2002, regarding the confusion of the filing date of the German patent application. A copy of this letter is attached as Exhibit 6.

8. On February 14, 2002, I called Mr. O'Malley to discuss the confusion of the filing date of the German patent application. During our phone call, I explained that one of the younger members of our firm, who I was the supervisor for, had prematurely filed the German patent application on December 28, 2001 (six (6) days prior to the granting of the foreign filing license), rather than waiting to file the German patent application until receiving the explicit instructions to do so, as instructed in Ms. Palomar's letter dated December 10, 2001, which is provided as Exhibit 1.

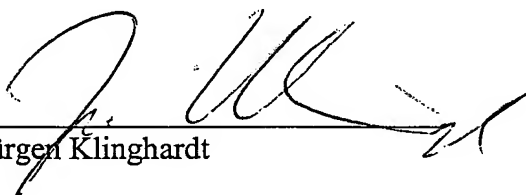
9. The younger member of our firm who prematurely filed the German patent application on December 28, 2001 is no longer with our firm and, thus, I, as the younger member's supervisor, and having direct knowledge of the surrounding events, am attesting hereto.

10. The German patent application was filed abroad through error and without deceptive intent without the required license under §5.11 first having been obtained.

11. I further declare that all statements made herein of my own personal knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

Date 16 May 2002

337489


Jürgen Klinghardt

TREXLER BUSHNELL, GIANGIORGI, BLACKSTONE & MARR LTD.

COUNSELORS AT LAW

THE CLARK ADAMS BUILDING

105 WEST ADAMS STREET, SUITE 3600

CHICAGO, ILLINOIS 60603-6299

(312) 704-1890

December 10, 2001

FOUNDED 1890

PATENT, TRADEMARK, COPYRIGHT
AND RELATED MATTERS: ALL PHASES
INCLUDING LICENSING AND LITIGATION

FAX: (312) 704-8023
www.trexlaw.com

RICHARD R. TREXLER (1906-1995)
RICHARD A. GIANGIORGI
RAIFORD A. BLACKSTONE, JR.
DAVID J. MARR
LINDA L. PALOMAR
JAMES R. FOLEY
JAMES A. O'MALLEY
TIMOTHY M. MCCARTHY
PAIGE A. KITZINGER

OF COUNSEL
RICHARD BUSHNELL

**VIA FACSIMILE, CONFIRMATION AND
ENCLOSURES VIA DHL**

Eisenfuhr, Speiser & Partner
Martinistrasse 24
28195 Bremen
Germany

Re: Proposed German Patent Application
CLAIMING PRIORITY OF
United States Provisional Patent Application
Serial Nos. 60/259,947; and formal
Patent Application Serial No. (Not yet available)
For: "HYDRAULIC PUNCH DRIVER"
Our Ref: Greenlee Case 283-Germany (913/39742)

Dear Sirs:

We enclose herewith material to file a Patent Application in Germany ***before January 5, 2002***. Full particulars concerning the Applicant, etc., are set forth on the attached sheet of particulars. We will advise you of the *serial number of the formal patent application filed on November 13, 2001 as soon as it is available to us*.

Enclosed please find the following:

- 1) Specification 16 pages
- 2) Claims six pages 22 claims
- 3) Abstract one page
- 4) A copy of the informal drawings-
six sheets, 6 FIGS.

We will forward under separate cover the Certified Copies of the United States Provisional and formal applications and the formal drawings.

TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR, LTD.

Eisenfuhr, Speiser & Partner
December 10, 2001
Page 2

NOTE: Please delay filing this patent application until we notify you that the Foreign Filing License has been granted.

Kindly acknowledge safe receipt of these instructions **by return facsimile.**

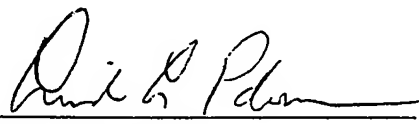
Please advise if you need anything further from us to comply with the filing requirements.

Thank you for your cooperation.

Sincerely,

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.

By


Linda L. Palomar

LLP/mk/Enc.
Enclosures via DHL

Foreign Filings
Greenlee Case 283-Germany

FOR: "HYDRAULIC PUNCH DRIVER"

INVENTOR/S William F. Nordlin
1672 Candlewick Dr.
S.W. Poplar Grove, Illinois 61065 USA

Thomas Gene Boese
3993 Courtland Terrace
Rockford, Illinois 61109 USA

APPLICANT: GREENLEE TEXTRON INC.
4455 Boeing Drive
Rockford, Illinois 61109 USA

(A corporation of the state of Delaware)

PRIORITIES: UNITED STATES PROVISIONAL PATENT APPLICATION
SERIAL NO. 60/259,947
Filed: January 5, 2001

UNITED STATES FORMAL PATENT APPLICATION
SERIAL NO. Not available yet
Filed: November 13, 2001

TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR LTD.
COUNSELORS AT LAW

THE CLARK ADAMS BUILDING
105 WEST ADAMS STREET, SUITE 3600
CHICAGO, ILLINOIS 60603-6299
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RICHARD R. TREXLER (1906-1995)
RICHARD A. GIANGIORGI
RAIFORD A. BLACKSTONE, JR.
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JAMES R. FOLEY
JAMES A. O'MALLEY
TIMOTHY M. MCCARTHY
PAIGE A. KITZINGER

FOUNDED 1890

PATENT, TRADEMARK, COPYRIGHT
AND RELATED MATTERS; ALL PHASES
INCLUDING LICENSING AND LITIGATION

FAX: (312) 704-8023
www.trexlaw.com

January 2, 2002

OF COUNSEL
RICHARD BUSHNELL

**VIA FACSIMILE WITH
CONFIRMATION VIA AIR MAIL**

Eisenfuhr, Speiser & Partner
Martinstrasse 24
28195 Bremen
GERMANY

RECEIVED

APR 23 2003

OFFICE OF PETITIONS

Re: Proposed German Patent Application
CLAIMING PRIORITY OF
United States Provisional Patent Application
Serial No. 60/258,947; and formal
Patent Application Serial No. (unknown)
For: "HYDRAULIC PUNCH DRIVER"
Our Ref.: Greenlee Case 283-Germany (913/39742)

Dear Sirs:

Further to our letter dated December 10, 2001, please proceed with filing the above-identified patent application on January 4, 2002. The foreign filing license for this application should be granted by January 4, 2002 (but even if it is not granted, you are to file on January 4, 2002).

Please note that the formal United States patent application has not yet been assigned a Serial Number. We will forward this information to you once we receive it from the United States Patent and Trademark Office. If the Serial Number is necessary for the filing of the German patent application, please base the priority only on the United States provisional patent application Serial No. 60/258,947.

Kindly acknowledge safe receipt of these instructions by return facsimile.

Please advise if you need anything further from us to comply with the filing requirements.

TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR, LTD.

Eisenfuhr, Speiser & Partner

January 2, 2002


Page 2

Thank you for your cooperation.

Sincerely,

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.

By:


Linda L. Palomar

LLP/JAO:74967-1

Eisenführ, Speiser & Partner**BY FAX ONLY**

Messrs.

Trexler, Bushnell, Giangiorgi
& Blackstone, Ltd.

Attn.: Ms. Linda L. Palomar

105 West Adams Street, 36th Floor

Chicago, Ill. 60603-6299

U. S. A.

Bremen, 3 January 2002

Your Ref.: Greenlee Case 283-Germany (913/39742)

Our Ref.: G 588 SAS/hs

Direct Dial: +49-421-36 35 341

Greenlee Textron Inc.
New German patent application
Hydraulic punch driver

Dear Ms. Palomar,

We confirm safe receipt of your letters dated December 10, 2001 and January 2, 2002 and confirm that the German patent application will be filed before January 5, 2002.

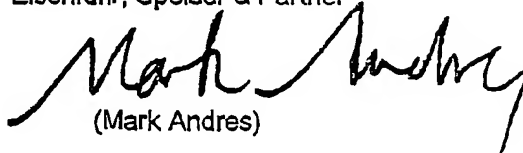
As regards the priority data of the United States provisional patent application please advise, whether the serial number 60/259,947 or 60/258,947 is correct. We have noted that the data provided in your two above referenced letters differs.

The serial number of the formal US application can be submitted to the German Patent and Trademark Office later. Please provide this serial number at your earliest convenience.

We will keep you informed on the further development of this filing.

Very truly yours,

Eisenführ, Speiser & Partner



(Mark Andres)

Bremen
Patentanwälte
European Patent Attorneys
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Dipl.-Ing. Dieter K. Speiser
Dr.-Ing. Werner W. Rabus
Dipl.-Ing. Jürgen Brügge
Dipl.-Ing. Jürgen Klinghardt
Dipl.-Ing. Klaus G. Göken

Jochen Enlors
Dipl.-Ing. Mark Andres
Dipl.-Chem. Dr. Uwe Stilkenböhrer
Dipl.-Ing. Stephan Keck
Dipl.-Ing. Johannes M. B. Wasiljeff
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Dr.-Ing. Stefan Sasse

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Patentanwalt
Dipl.-Phys. Dr. Andreas Theobald

Alicante
European Trademark Attorney
Dipl.-Ing. Jürgen Klinghardt

Messrs.
Trexler, Bushnell, Giangiorgi
& Blackstone, Ltd.
Attn.: Ms. Linda L. Palomar
105 West Adams Street, 36th Floor

Chicago, Ill. 60603-6299
U. S. A.

Bremen, 23 January 2002

Your Ref.: Greenlee Case 283-Germany (913/39742)
Our Ref.: G 588 SAS/inl
Direct Dial: +49-421-36 35 341

Greenlee Textron Inc.
German patent application 101 64 376.4
Hydraulic punch driver

Dear Ms. Palomar,

Thanking you for this order we would like to advise that the above mentioned application has now been filed in the German Patent and Trademark Office in foreign language. According to German Patent Law we will prepare and file a German translation until 28 March 2002 and report thereon upon filing.

Please, note all data regarding this case from the enclosed filing receipt and LIST OF PARTICULARS.

In the absence of respective instructions we have not yet requested examination of this application. The final term for filing the request for examination expires on 28 December 2008. ✓

Very truly yours,
Eisenführ, Speiser & Partner

Patentanwalt

Bremen
Patentanwälte
European Patent Attorneys
Dipl.-Ing. Günther Eisenführ
Dipl.-Ing. Dieter K. Speiser
Dr.-Ing. Werner W. Rabus
Dipl.-Ing. Jürgen Brügge
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Jochen Ehlers
Dipl.-Ing. Mark Andres
Dipl.-Chem. Dr. Uwe Stilkensböhmer
Dipl.-Ing. Stephan Keck
Dipl.-Ing. Johannes M. B. Wasiljeff
Patentanwalt
Dr.-Ing. Stefan Sasse

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European Patent Attorney
Dipl.-Phys. Frank Meier

Rechtsanwälte
Rainer Böhm
Nicol A. Schrömgens, LL. M.

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Patentanwälte
European Patent Attorneys
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Dipl.-Wirt.-Ing. Rainer Fritzsche
Lbm.-Chem. Gabriele Leißler-Gers
Dipl.-Ing. Olaf Ungerer
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Patentanwalt
Dipl.-Phys. Dr. Andreas Theobald

Alicante
European Trademark Attorney
Dipl.-Ing. Jürgen Klinghardt

CASE: Greenlee 283-DE
FILE #: 913/39742
S/N i. filing date entered
Reg. fee Ex DUE 12/28/08

Encls.

- 1 Filing Receipt (Copy)
- 1 List of Particulars
- 1 Information Sheet
- 1 debit-note, in dupl.

Empfangsbescheinigung

DEUTSCHES PATENT- UND MARKENAMT

In der An-
schrift Straße,
Haus-Nr. und
ggf. Postfach
angeben

(1) Sendungen des Deutschen Patent- und Markenamts sind zu richten an:

Eisenführ, Speiser & Partner
Martinistrasse 24

28195 Bremen

Antrag
auf Erteilung
eines Patents

1

Vordruck nicht
für PCT-Ver-
fahren ver-
wenden
s. Rückseite

☐ TELEFAX vorab am

Aktenzeichen (wird vom Deutschen Patent- und Markenamt vergeben)

101 64 376.4

(2) Zeichen des Anmelders/Vertreters (max. 20 Stellen)
G 588

Telefon des Anmelders/Vertreters
36 35 -0

Datum
27.12.2001/pls

(3) Der Empfänger in Feld (1) ist der

ggf. Nr. der Allgemeinen Vollmacht

☐ Anmelder

☒ Zustellungsbevollmächtigte

☒ Vertreter

(4) Anmelder

Vertreter

nur
auszufüllen,
wenn ab-
weichend von
Feld (1)

GREENLEE TEXTRON INC.
4455 Boeing Drive
Rockford, Illinois 61109
Vereinigte Staaten von Amerika

Eisenführ, Speiser & Partner
Martinistrasse 24
28195 Bremen

Handelsregl-
sternummer

nur bei Firmen
anzugeben

☐ Der Anmelder ist eingetragen im Handelsregister Nr. _____ beim Amtsgericht

(5) Anmeldercode-Nr.

Vertretercode-Nr.

Zustelladresscode-Nr.

ABT

ERF

(6) Bezeichnung der Erfindung

Hydraulischer Schlagantrieb

IPC-Vorschlag
d. Anmelders

(7) Sonstige Anträge

Aktenzeichen der Hauptanmeldung (des Hauptpatents)

s. Erläute-
rung u.
Kosten-
hinweise

☐ Die Anmeldung ist Zusatz zur Patentanmeldung (zum Patent)

☐ Prüfungsantrag - Prüfung der Anmeldung mit Ermittlung der öffentlichen Druckschriften (§ 44 Patentgesetz)

☐ Recherchantrag - Ermittlung der öffentlichen Druckschriften ohne Prüfung (§ 43 Patentgesetz)

☐ Lieferung von Ablichtungen der ermittelten Druckschriften im ☐ Prüfungsverfahren ☐ Rechercheverfahren

auf der
Rückseite

☐ Aussetzung des Erteilungsbeschlusses auf _____ Monate (§ 49 Abs. 2 Patentgesetz)
(Max. 15 Mon. ab Anmelde- oder Prioritätstag)

(8) Erklärungen

Aktenzeichen der Stammanmeldung

☐ Teilung/Ausscheidung aus der Patentanmeldung

☐ an Lizenzvergabe Interessiert (unverbindlich)

☐ Nachanmeldung im Ausland beabsichtigt (unverbindlich)

(9) ☐ Inländische Priorität (Datum, Aktenzeichen der Voranmeldung)

☒ Ausländische Priorität (Datum, Land, Aktenz. der Voranmeldung: vollständiges Abschrift(en) der ausländischen Voranmeldung(en) beifügen)

1. 05. Januar 2001 - U.S.A. - 60/259,947 2. 13. November 2001 - U.S.A. - folgt

s. auch
Rückseite

(10) Gebühreuzahlung in Höhe von 100.00 DM

☐ Scheck ist beigelegt

Erläuterung
und Kosten-
hinweise s.
Rückseite

☐ Überweisung (nach Erhalt
der Empfangsbescheinigung)

☒ Abbuchung von meinem/unserem Abbuchungskonto
bei der Dresdner Bank AG, München

☐ Gebührenmarken sind beigelegt
(bitte nicht auf die Rückseite kleben,
ggf. auf gesondertes Blatt)

Abbuchungsauftrag (V 1244) ist beigelegt

(11) Anlagen

5. 8 22 Seite(n) Patentansprüche
Anzahl Patentansprüche

Anlagen

1. _____ Vertretervollmacht
3. 7. _____ Erfindernennung
jeweils 3-fach 3. 1. _____ Zusammenfassung
(ggf. mit Zeichnung Flg. _____)

6. 8 Blatt Zeichnungen
7. _____ Abschrift(en) d. Voranmeld.
8. _____ Zitierte Nichtpatentliteratur

Stefan Sasse

s. auch
Rückseite

4. 16 Seite(n) Beschreibung
(ggf. mit Bezugszeichenliste)

9. _____

(12) Unterschrift(en)

Nur von der Annahmestelle auszufüllen:

Diese Patentanmeldung ist an dem durch Perforierung angegebenen Tag beim Deutschen Patent- und Markenamt eingegangen. Sie hat das o.a. Aktenzeichen erhalten.
Dieses Aktenzeichen ist bei allen Eingaben anzugeben. Bei Zahlungen ist das vollständige Aktenzeichen und der Verwendungszweck in Form des Gebühren-
codes (s. Rückseite zu Feld (10)) zu vermerken.

☐ Gebührenmarken im Wert von _____ DM sind entrichtet

☐ Bei Abbuchung V 1244 bzw. Dabuchung an Zahlstelle gesandt

Bitte beachten Sie die Hinweise

LIST OF PARTICULARS

Date: 23 January 2002

YOUR FILE: Greenlee Case 283-Germany (913/39742)

OUR FILE: G 588

APPLICATION FOR: patent application

COUNTRY: Germany

SERIAL NUMBER: 101 64 376.4 ✓

APPLICANT: Greenlee Textron Inc.
4455 Boeing Drive
Rockford, Illinois 61109

TITLE: Hydraulischer Schlagantrieb

PRIORITIES: 05.01.2001 - 60/259,947 - US
13.11.2001 - - US

FILING DATE: 28 December 2001 ✓

LAID OPEN AFTER APPROX.: 5 July 2002

EXAMINATION PETITION: 28 December 2008 ✓

ANNUITIES FROM: 31 December 2003 ✓

— CPA

TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR LTD.

COUNSELORS AT LAW

THE CLARK ADAMS BUILDING

105 WEST ADAMS STREET, SUITE 3600

CHICAGO, ILLINOIS 60603-6299

(312) 704-1890

FOUNDED 1890

PATENT, TRADEMARK, COPYRIGHT
AND RELATED MATTERS: ALL PHASES
INCLUDING LICENSING AND LITIGATION

FAX: (312) 704-8023

www.trexlaw.com

RICHARD R. TREXLER (1906-1995)
RICHARD A. GIANGIORGI
RAIFORD A. BLACKSTONE, JR.
DAVID J. MARR
LINDA L. PALOMAR
JAMES R. FOLEY
JAMES A. O'MALLEY
TIMOTHY M. MCCARTHY
PAIGE A. KITZINGER

February 7, 2002

OF COUNSEL
RICHARD BUSHNELL

VIA FACSIMILE

Eisenfuhr, Speiser & Partner
Martinistrasse 24
28195 Bremen
GERMANY

Re: German Patent Application No. 101 64 376.4
In the name of Greenlee Textron Inc.
Your Ref.: G 588 SAS/hs
Our Ref.: Greenlee Case 283-Germany (913/39742)

Dear Sirs:

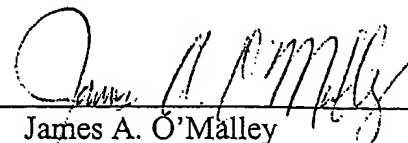
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Thus, based on the correspondence described above, we do not understand why your letter dated 23 January 2002 states that the filing date for the German patent application is 28 December 2001, as the application should have been filed on 4 January 2002. Please explain.

Sincerely,

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.

By: 
James A. O'Malley

JAO:305301

TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR LTD.

COUNSELORS AT LAW

THE CLARK ADAMS BUILDING

105 WEST ADAMS STREET, SUITE 3600

CHICAGO, ILLINOIS 60603-6299

(312) 704-1890

FOUNDED 1890

PATENT, TRADEMARK, COPYRIGHT
AND RELATED MATTERS: ALL PHASES
INCLUDING LICENSING AND LITIGATION

FAX: (312) 704-8023
www.trexlaw.com

RICHARD R. TREXLER (1906-1995)
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DAVID J. MARR
LINDA L. PALOMAR
JAMES R. FOLEY
JAMES A. O'MALLEY
TIMOTHY M. MCCARTHY
PAIGE A. KITZINGER

February 7, 2002

OF COUNSEL
RICHARD BUSHNELL

VIA FACSIMILE + Mail

February 13, 2002

REMINDER

Eisenfuhr, Speiser & Partner
Martinistrasse 24
28195 Bremen
GERMANY

Re: German Patent Application No. 101 64 376.4
In the name of Greenlee Textron Inc.
Your Ref.: G 588 SAS/hs
Our Ref.: Greenlee Case 283-Germany (913/39742)

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Sincerely,

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.

By: 
James A. O'Malley

JAO:305301

Case 283
913/38954

May 28, 2002
RAG/LLP/JAO/tes

Applicant: NORDLIN et al.
Serial No.: 10/074,535
Filed: November 13, 2001
For: HYDRAULIC PUNCH DRIVER

Enclosed: **SUPPLEMENT TO PETITION FOR RETROACTIVE LICENSE (37 CFR §5.25) FILED ON FEBRUARY 19, 2002** (in duplicate); exhibits 1 through 3; Certificate of First Class Mailing and this postcard.

Receipt Acknowledged: _____

F/U: 06/28/02

HON. COMMISSIONER FOR TRADEMARKS:

Kindly stamp card with date of receipt of attached material and return to attorneys of record.